

## ORDINANCE SETTING SCHEDULE OF NONCONSENSUAL TOWING FEES FOR POLICE INITIATED TOWS AND OTHER TOWS

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Whereas, Section 1-3 of the City Code provides that ordinances that set any fees imposed by any person shall be codified by entry upon official schedules;

Whereas, the city refers to its official schedules as its “fee schedule”;

Whereas, tow truck operators on the city police department rotation list respond to calls in which a vehicle needs to be removed from public streets, such as the owner or operator of such vehicle may be incapacitated and unable to select a tow truck operator to remove the vehicle or the vehicle is on the public streets and is inoperable;

Whereas, the schedule of nonconsensual towing fees for tow truck operators on city police department rotation list are such fees that may be placed in the fee schedule;

Whereas, in some instances, vehicles on private property are lawfully subject to a nonconsensual tow and such fees may be placed in the fee schedule;

Whereas, the city council authorizes the schedule of nonconsensual towing fees for police-initiated tows and other types of nonconsensual tows be codified by placing such fees in the fee schedule;

Whereas, the city council authorizes that any previous schedule of nonconsensual tow fees in conflict with this ordinance be repealed;

Whereas, Section 50-391 of the City Code provides that no tow truck operator shall charge the owner of any vehicle towed without the consent of the owner an amount for towing and storage fees in excess of the schedule of fees prescribed in the schedule of nonconsensual towing fees adopted by the city council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DURHAM ORDAINS:

**Section 1.** The Fee Schedule is amended by adding the following new parts (Part 12-104 Part 12-105 and Part 12-106) to Chapter 12 to read:

**“Part 12-104. Schedule of Police-Initiated Nonconsensual Tow Fees**

Pursuant to Section 50-391 of the City Code, the following maximum charges are allowed and apply to police-initiated (Durham rotation wrecker request) nonconsensual tows in the city.

- a)** Towing of vehicles as a result of Durham rotation wrecker request to include winching unless otherwise listed:  
(Wrecker and rollback or “common carrier” charges are the same).

Maximum charge of **\$165.00**

**b) Time and Labor:** Unusual or extraordinary circumstances requiring the tow truck operator to spend more than 30 minutes at the location where the vehicle is to be towed from:

Maximum charge of \$21.25 for each additional 15 minutes.

**c) Extra Labor Charge:**

Maximum charge of \$55.00 with respect to towing one vehicle. The extra labor charge is a charged for the following or similar services or issues, regardless of how many of the services are provided or issues are present with respect to towing one vehicle:

Over-turned vehicle, vehicle has no keys\*, pulling vehicle from an embankment, vehicle has no tires or wheels, extra cleanup for excessive glass, use of a snatch block, use of dollies, and extra employee charge. (Each item must be itemized on the invoice.)

When extra labor is charged the City police officer's name and employee number shall be included on the invoice.

\*A "no key" charge shall not be imposed for a recovered stolen vehicle.

**d) Release of vehicle or retrieval of personal property outside of the tow truck operator's regular business hours.**

Maximum charge of \$50.00

**e) Storage of vehicle**

\$35.00 charge will apply after 8:00 A.M. the following day, then \$35 each day or portion of a day thereafter.

**f) DMV filing fee**

Maximum charge of \$50.00

This charge may be made only if the tow truck operator reports to the Division of Motor Vehicles that the vehicle is unclaimed. In order to make this charge, the tow truck operator must on or after the tenth day of storage complete DMV form (Form #ENF-260 (rev. 4/98) or a revised form if any is issued by the DMV) and deliver the form to the DMV. A copy of the completed form shall remain on file at the tow truck operator's business for review.

**g)** Use of absorbent material at the scene of an accident where clean-up and removal of fluids are necessary.

**Fee:** Maximum charge \$10.00 per bag.

**h) Heavy Duty Tow fee**

A heavy duty vehicle is a vehicle whose gross vehicle weight (GVW) is equal to or greater than 8,600 pounds.

The maximum charges in this part do not apply to the towing of a heavy duty vehicle. Exception: However, Sections (d), (e) and (f) above (release of vehicle, storage of vehicle & DMV filing fee) of this part would apply to heavy duty tow, if applicable.

**Part 12-105. Schedule of Other Nonconsensual Tow Fees: (Private Property Towing Fees Not Initiated by Police Department)**

Pursuant to Section 50-391 of the City Code, the following schedule of fees shall apply to nonconsensual tows that are not initiated by the police in the city.

**a)** Towing of vehicles, to include winching unless otherwise listed:  
(Wrecker and rollback or “common carrier” charges are the same).

Maximum charge of **\$125.00. No additional fees may be charged for using dollies, trailers, lifts, Slim Jims or any other equipment or services.**

**b)** Pursuant to Section 50-391(c) of the city code, the maximum charge to release a vehicle is 50% of the maximum charge allowed under Part 12-105(a).

**c) Storage of Vehicle**

\$35.00 charge will apply after 8:00 a.m. the following day, then \$35.00 each day thereafter.

**d)** Release of vehicle or retrieval of personal property outside of the tow operator’s regular business hours.

Maximum charge of \$50.00

**e) Heavy Duty Tow fee**

A heavy duty vehicle is a vehicle whose gross vehicle weight (GVW) is equal to or greater than 8,600 pounds.

The maximum charges in this part do not apply to the towing of a heavy duty vehicle. Exception: However, Sections (c) and (d) above (storage of vehicle & release of vehicle) of this part would apply to heavy duty tow, if applicable.

**Part 12-106 Wrecker Dispatch Fee**

Pursuant to city code section 50-391(f), a tow truck operator on the city's rotation wrecker request list shall pay \$10.00 per vehicle towed."

**Section 2.** This ordinance shall be in full force and effect from and after its passage.

**Section 3.** Resolution #8949 captioned "A Resolution Establishing Schedule of Fees for Nonconsensual Tows" and approved by city council on December 16, 2002 is repealed. Resolution #9131 captioned "A Resolution Establishing A Wrecker Dispatch Fee" and approved by city council on June 21, 2004 is repealed.

**Section 4.** Any City resolution or ordinance in conflict with this ordinance is hereby repealed only to the extent of the conflict.